

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

HARRIS L. WINNS,

Plaintiff,

v.

HAROLD CLARKE, *et al.*,

Defendants.

NO. C06-5723RBL

ORDER GRANTING PLAINTIFF'S IFP  
APPLICATION  
AND DENYING PLAINTIFF'S MOTION  
TO APPOINT COUNSEL

This matter is before the Court on Plaintiff's application to proceed in forma pauperis under 28 U.S.C. § 1915(a) [Dkt. #1], and his Motion to Appoint Counsel [Dkt. # 2].

The court has broad discretion in determining an application to proceed in forma pauperis. Weller v. Dickson, 314 F.2d 598 (9<sup>th</sup> Cir. 1963), cert. denied 375 U.S. 845 (1963). As of the date of the filing of this case, Plaintiff lists minimal assets and no income. It is apparent that Plaintiff is unable to pay the filing fee in this case. Accordingly, the Court will GRANT his application to proceed in forma pauperis [Dkt. # 1].

Under 28 U.S.C. § 1915(e)(1), the court may request an attorney to represent any person unable to afford counsel. Under Section 1915, the court may appoint counsel in exceptional circumstances. Franklin v. Murphy, 745 F.2d 1221, 1236 (9<sup>th</sup> Cir. 1984). To find exceptional circumstances, the court must evaluate the likelihood of success on the merits and the ability of the petitioner to articulate the claims pro se in light of the complexity of the legal issues involved. Weygandt v. Look, 718 F.2d 952, 954 (9<sup>th</sup>

1 Cir. 1983).

2 This case involves primarily plaintiff's allegation of a simple assault. Plaintiff has demonstrated  
3 that he can articulate his claims, at length, and the core legal issues involved do not appear to be overly  
4 complex. More importantly, there is no basis for determining that plaintiff has met his burden of showing  
5 a likelihood of success on the merits.

6 There are no exceptional circumstances and the court will therefore DENY the plaintiff's request  
7 for the appointment of counsel [Dkt. #2].

8 DATED this 18<sup>th</sup> day of January, 2007.

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10 RONALD B. LEIGHTON  
11 UNITED STATES DISTRICT JUDGE  
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